



## **Press Release**

### **National Labor Relations Board**

#### **Office of the General Counsel**

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### **NLRB Approves \$2.5 Million Settlement in Connecticut Striker Replacement Case**

National Labor Relations Board General Counsel Ronald Meisburg today announced the approval of a compliance settlement that provides \$2.55 million in back pay, interest and pension credits to 133 current and former employees of Church Homes, Inc., a nursing home and extended care facility in Hartford, Connecticut.

The settlement brings an end to a decade-long dispute involving the Employer's failure to reinstate workers who offered unconditionally to return to work. Under NLRB and Supreme Court precedent, an employer is permitted to "permanently replace" striking employees in order to continue operating. However, if the striking employees unconditionally offer to return to work, the employer must place all strikers on a preferential hiring list and re-hire strikers as openings occur.

The case dates back to November, 1999, when employees represented by District 1199 of the New England Health Care Employees Union began a strike against Church Homes. The Employer hired permanent replacements but did not advise the Union until more than half of the strikers had been replaced. After an investigation, the NLRB Regional Office in Hartford argued that the Employer's hiring of replacements in secret was meant to punish the strikers and dilute support for the Union in violation of the National Labor Relations Act.

A series of rulings and appeals followed. An Administrative Law Judge ruled in favor of the Union however was reversed by the NLRB in Washington in 2004. In turn, the United States Court of Appeals for the Second Circuit vacated the findings and remanded the case to the NLRB for further consideration. In June of 2007, the NLRB issued a Supplemental Decision in which it concluded that Church Homes, Inc. had unlawfully failed to reinstate the striking employees. The Supplemental Decision was sustained by the Second Circuit on December 29, 2008. Finally, in October 2009, the Supreme Court refused to hear the Employer's appeal.

All of the striking employees were eventually re-hired. Today's settlement resolves the amount of back pay and benefits due to them. The case is significant because it is the first time the NLRB has decided whether an employer may replace striking employees "secretly" without providing the union an opportunity to consider ending a strike or changing tactics.

"I commend the parties for their cooperative efforts in reaching this settlement that provides tangible and significant benefits to more than 130 employees," said General Counsel Meisburg.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions. The NLRB's Office of the General Counsel has independent prosecutorial discretion under the National Labor Relations Act to issue complaints alleging such unfair labor practices.

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